

**REMARKS**

Reconsideration of this Application is respectfully requested. Upon entry of the foregoing amendment, Claims 8-10, 17-19, 21-23, 26, 34, and 40 are pending in the application.

- Claims 7 and 16 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein.
- Claim 8 has been amended and is now an independent claim.
- Claim 9 has been amended and remains dependent upon Claim 8.
- Claim 10 has been amended and remains in independent form.
- Claim 17 has been amended and is now in independent form.
- Claim 18 has been amended and remains dependent upon Claim 17.
- Claim 19 has been amended and remains in independent form.
- Claims 21, 22, and 23 remain in dependent form but have been amended to depend upon Claim 8.
- Claim 26 has been amended and remains in independent form.
- Claim 34, which was previously presented, remains dependent upon Claim 19.
- Claim 40 is a dependent claim that has been amended to depend upon claim 8.

Based on the above Amendment and the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

***Interview***

Applicants would like to thank the Examiner for agreeing to the interview conducted on July 18, 2005, where prior art and claim limitations were discussed.

***Rejections under 35 U.S.C. § 103***

The Examiner's rejections of the Applicants' claims are based on obviousness under 35 U.S.C. § 103(a). Applicants' amendments traverse the rejections for the reasons discussed below.

Applicants have amended the limitations listed in Claims 8, 17, and 26 to include additional description about the heartbeat communicated from a client computer to a server. This concerns the server that the client computer has located after determining that the particular license server from which it previously received an authorization to use protected software is no longer capable of managing a distribution of allocations of such software. In addition, Applicants have amended Claims 8, 9, 17, 18, and 26 to refer to "an additional heartbeat" rather than to "a heartbeat." The change has been made to distinguish the "additional heartbeat" that a client computer sends upon locating a server from the heartbeats that a client computer sends to a server that has already authorized the client computer to use the protected software.

Claims 8, 17, and 26 are patentable as amended. Also, because Claims 9, 18, 21-23, and 40 depend upon Claim 8, Claim 17, or Claim 26, the dependent claims are also patentable. The Examiner's rejection of these claims is premised on the disclosure of Bains et al. ("Bains").

Bains discloses sending a ping to a license server to indicate continued use of a license. See Bains, Col. 7, Lines 40-46. Bains does not, however, disclose sending a heartbeat that conveys the number of allocations of the protected software that a client computer requires. Also, Bains does not disclose sending a heartbeat to a new leader server or to any license server other than the server that initially authorized the client computer to use protected software. Applicants respectfully urge that their amendment therefore traverses the Examiner's rejection.

There are two additional reasons why the amended claims are not obvious. First, Bains teaches away from using a multiple license server system, noting that a failure on a network can prevent all software applications from running. See Bains, Col. 3, Lines 12-32. Bains therefore advocates a license management system comprising a single license server with locally maintained license policies. See Bains Col. 3, Lines 38-42 (referring to "the license server"); Col. 7, Lines 12-17 (referring to "single license server"); Col. 4, Lines 4-7 (advocating locally maintained license policies); Col. 5, Lines 52-58 (disclosing a means for a client computer to grant itself a temporary license). Given this strong preference for single-server systems, it would not be appropriate to use Bains as the basis for an obviousness rejection of claims directed towards multiple-server systems. Bains teaches away from adopting the solution that Applicants propose.

Second, Bains discusses the long-felt need for a license management system that is capable of coping with communication problems that occur within a network. See Bains Col. 3, Lines 12-32 (discussing the problem and citing a 1991 article that discusses the problem). This

is exactly the problem that Applicants' invention is intended to address. The fact that the present invention addresses a long-felt need is a further indication of the nonobvious nature of these particular claim limitations and of the invention in general.

Applicants have also amended certain limitations of Claims 10 and 19. These claims now refer to “follower” servers, rather than “license” servers. In addition, these claims now provide additional description about the redundant license file used in the invention.

Claims 10 and 19 are patentable as amended. Also, because Claim 34 depends upon Claim 19, Claim 34 is patentable. The Examiner's rejection of these claims was premised on the disclosure in Badovinat et al. (“Badovinat”) of sequenced messages. Badovinat discloses the use of sequenced messages to manage and monitor changes to process groups of computer processors. See Badovinat Col. 7, Lines 13-18 (discussing the removal or addition of processors to process groups); Col. 12, Lines 15-20. Importantly, Badovinat only discloses sequenced messages where the sequence number is assigned by the current group leader. See Badovinat Col. 8, Lines 1-22. In fact, if the other processors described in Badovinat could assign sequence numbers, it would defeat the purpose of the numbering. A processor can normally determine if it has received a message out of order by examining the sequence numbers of its messages. See Col. 8, Lines 4-8. However, the other processors, which are sometimes missing messages, may send messages to the group leader. See Col. 8, Lines 28-31; Col. 8, Lines 52-56. If these other processors could assign sequence numbers, more than one message might issue with the same number, making it impossible for a processor to determine whether it is

missing a particular message.

By contrast, an important advantage of Applicants' invention is that follower servers can assign sequence numbers. When the redundant license file of a particular license server is modified, the follower server increments the sequence number of the file. Then, when the follower server is brought back on line, the pool of license servers can determine based on the sequence number whether that server has a more recent version of the file than the other servers. In this manner, a change in license policy can be implemented from any follower server.

As amended, Claims 10 and 19 disclose sequence numbers assigned to redundant license files by follower servers, not leader servers. Moreover, the amended claims also provide detail about the content of the redundant license files. Badovinatz discloses neither of these limitations. Thus, Applicants traverse the Examiner's rejection with respect to Claims 10, 19, and 34 and respectfully urge that these claims are therefore patentable.

### ***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for

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any reason, that personal communication will expedite prosecution of this application, the

Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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